

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

DONALD FORD,

Plaintiff

VS.

BRUCE CHATMAN, *et al.*,

Defendants

NO. 5:07-CV-83 (WDO)

**PROCEEDINGS UNDER 42 U.S.C. §1983
BEFORE THE U. S. MAGISTRATE JUDGE**

RECOMMENDATION

Before the court is the defendants' Motion to Dismiss the above-styled action which alleges that plaintiff DONALD FORD, an inmate at Dooly State Prison, did not exhaust the administrative remedies available to him before he filed this federal suit. Exhaustion of administrative remedies is required by the Prison Litigation Reform Act of 1995 (PLRA).¹ Tab #10. Despite being advised of his duty to respond to the defendants' motion (Tab #11), plaintiff Ford has failed to do so.

The defendants' Motion to Dismiss is supported by the affidavit of Lisa Edwards which sets forth the grievance procedure that is in place at Dooly State Prison. The affidavit also states that plaintiff Ford filed a grievance relating to the subject matter of this suit, but that he never appealed the warden's denial of his grievance. An inmate must exhaust all administrative remedies before he can proceed in federal court, including administrative appeals. Plaintiff Ford has provided **NO EVIDENCE** to the contrary.

¹

No action shall be brought with respect to prison conditions under 1983 of this title, or any other Federal law by a prisoner confined in a jail, prison, or other correctional facility until such administrative remedies as are available are exhausted.

42 U.S.C. §1997e(a)

Because plaintiff Ford failed to exhaust his administrative remedies before filing the instant suit, IT IS RECOMMENDED that the defendants' Motion to Dismiss (Tab #9) be **GRANTED** and that this case be **DISMISSED** *without prejudice*.² Pursuant to 28 U.S.C. §636(b)(1), the parties may serve and file written objections to this RECOMMENDATION with the district judge to whom this case is assigned **WITHIN TEN (10) DAYS** after being served with a copy thereof.

SO RECOMMENDED this 6th day of NOVEMBER, 2007.



A handwritten signature in blue ink that reads "Claude W. Hicks, Jr."

CLAUDE W. HICKS, JR.
UNITED STATES MAGISTRATE JUDGE

²All dismissals for failure to exhaust administrative remedies must be without prejudice.